

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

ANGEL GARCIA,

Plaintiff,

v.

J. WEILAND, *et al.*,

Defendants.

Case No. 3:21-cv-00356-MMD-CSD

ORDER

Pro se Plaintiff Angel Garcia brings this action against Defendants Saul Arozaga, Sean Johnson, Macelen Kleer, Chet Rigney, William Reubart, Matthew Searle, James Weiland, Matthew Willhite, and John Does 1 and 2 under 42 U.S.C. § 1983. (ECF No. 7.) Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Craig S. Denney (ECF No. 34), recommending that the Court deny Garcia’s motion (ECF No. 18 (“Motion”)) for leave to file a first amended complaint (“FAC”). Garcia’s objection to the R&R was due October 6, 2022. To date, no objection has been filed. For this reason, and as explained below, the Court adopts the R&R in full.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”).

1 Because there was no objection to the R&R, the Court need not conduct de novo
2 review, and is satisfied that Judge Denney did not clearly err. The Court previously
3 screened Garcia's Complaint and allowed him to proceed with his Eighth Amendment
4 excessive force claims against Weiland, Johnson, Willhite, Kleer, Searle, Arozaga,
5 Rigney, Reubart, and John Does 1 and 2, and his Eighth Amendment deliberate
6 indifference claims against Weiland, Johnson, Willhite, Kleer, Searle, Arozaga, Reubart,
7 Rigney, and John Doe 1. (ECF No. 6.) Garcia now seeks to amend his Complaint to add
8 additional allegations and defendants. (ECF No. 18.) Judge Denney correctly found that
9 the Motion should be denied because Garcia's claims in the FAC are very similar to those
10 in the Complaint. (ECF No. 34 at 4-7.) As to the additional allegations and defendants in
11 the FAC, the Court agrees that Garcia failed to include sufficient allegations to state
12 colorable claims. (*Id.*) Garcia also failed to cure the deficiencies for previously dismissed
13 defendants. (*Id.* at 8.) Hence, the Court adopts the R&R in full and denies the Motion.
14 (ECF Nos. 18, 34.)

15 It is therefore ordered that Judge Denney's Report and Recommendation (ECF
16 No. 34) is accepted and adopted in full.

17 It is further ordered that Garcia's motion to amend (ECF No. 18) the Complaint is
18 denied.

19 It is further ordered that Brandon is substituted in the place of John Doe 2, as
20 Garcia appears to identify him in the FAC.

21 The Attorney General's Office is directed to file a notice indicating whether or not
22 it will accept service for Brandon within 14 days of this order. If service cannot be accepted
23 for Brandon, the Attorney General's Office is directed to file Brandon's last known address
24 under seal, but not serve it on Garcia.

25 DATED THIS 12th Day of October 2022.

26 

27 MIRANDA M. DU
28 CHIEF UNITED STATES DISTRICT JUDGE